

# **TOWN OF WEBSTER, NEW HAMPSHIRE, ORDINANCE FOR THE CONTROL OF JUNK YARDS**

## **SECTION I:**

### **A. Authority**

Under the authority vested in the Select Board and in accordance with the provisions of the New Hampshire Revised Statutes Annotated, Chapter 236, Sections 111 through 129, inclusive, as amended, and every other authority thereto enabling, the Select Board adopts the following regulations governing junk yards within the Town of Webster, New Hampshire.

### **B. Title**

This Ordinance shall be known as the Town of Webster Ordinance for the Control of Junk Yards.

### **C. Purpose**

It is the intent and purpose of this Ordinance to protect the public interest and welfare of the residents, business owners and visitors of the Town of Webster through the proper administration and strict enforcement of this Ordinance to protect public safety and welfare in a sound economic, safe, aesthetically pleasing and environmentally acceptable manner. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants and the safeguarding of their material rights against unwarrantable invasion. In addition, such an environment is considered essential to the maintenance and continued development of the tourist and recreational industry, which is hereby declared to be of significant and proven importance to the economy of the state and the general welfare of its citizens. Due to the significant number of aquifers located in Webster that are used for public consumption by individual private wells, it is particularly important to protect this resource by regulating Junk Yards.

## SECTION II:

### A. Definitions

- a. As defined in **RSA 236:112** of *Junk Yards, Automotive Recycling Yards, Machinery Junk Yards, Motor Vehicle Junk Yards, and Motor Vehicle Dealer*.
- b. As defined in **RSA 259:60** of *Motor Vehicle, and Trailer*,
- c. **"Person"** shall mean any person, association, company, corporation, partnership, or any natural or unnatural person.

## SECTION III:

### A. Requirements For Licensure to Establish, Operate And Maintain

No person shall establish, operate, or maintain a junk yard until he/she has

- (1) Complied with all Town of Webster Zoning and Planning Ordinances with reference to Groundwater Protection, Setback requirements, non-Conforming uses, and Commercial Exception.
- (2) Received approval from the Zoning Board of Adjustment certifying that the proposed location of the junk or machinery junk yard is not within an established zoning district restricted against such uses or otherwise contrary to the prohibitions of the Zoning Ordinance or obtained from the Zoning Board of Adjustment a permit (variance or special exception) to operate.
- (3) Received site plan approval from the Webster Planning Board as required
- (4) Obtained a license to operate or maintain a Junk Yard business from the Select Board.

### B. Application For License

Before any person shall establish, maintain, or operate a junkyard he/she shall make application for licensure in writing to the Select Board. The written application shall be on the form provided by the Select Board and shall be accompanied by all the information required by this Ordinance, as well as copies of all approvals obtained from the Zoning Board of Adjustment and Planning Board, if necessary. In the first year of operation the applicant shall submit his application before he begins the operation of

the junk or machinery Junk Yard. Permit renewal applications shall be submitted prior to April 1 of each year.

The license application shall include the following information:

- a) The name, address, and telephone number of the individual or entity applying, naming the manager and corporate officers, if applicable.
- b) Whether or not the application is the result of a proposed transfer of ownership of an existing junkyard.
- c) Location of the junkyard, including a description of the land, a detailed sketch plan showing property lines and the limits of the junk storage area.
- d) Description of the type of operation and proof of legal ownership or right to use the property for the license period.
- e) A certificate signed by the applicant attesting that all provisions of state law, including best management practices established by the N.H. Department of Environmental Services, have been or will be complied with before the location is used as a Junk Yard.
- f) Payment by April 1<sup>st</sup> of the annual Junkyard License Fee established by the Board of Selectmen per the State statute.
- g) Certification of compliance with best management practices established by the Department of Environmental Services, for applications to establish Automotive Recycling Yards and Motor Vehicle Junk Yards.

#### C. Hearing

Prior to the issuance of an initial license, the Select Board shall hold a public hearing on a completed application. All hearings shall be held within the Town of Webster not less than two nor more than four weeks from the date of receipt of the completed application by the Select Board. Notice of the hearing shall be given to the applicant and the notice shall be published once in a newspaper of general circulation within the Town. Publication shall be not less than seven days before the date of the hearing. At the time and place set for the hearing, the Select Board shall hear the applicant and all other persons wishing to be heard on the

application for a license to operate, establish or maintain a Junk Yard.

D. License Requirements

In passing on the application, the Select Board shall consider the suitability of the applicant with reference to his/her ability to comply with the fencing requirements or other reasonable regulations concerning the proposed Junk Yard, to any record of convictions for any type of larceny or receiving stolen property or goods, and to any matter within the purpose of RSA 236 or this Ordinance.

E. Location Requirements

In passing upon the application, after receiving proof of legal ownership or right to the use of the property by the applicant for the license period, the Select Board shall consider the nature and development of the surrounding properties, such as the proximity of churches, schools, public buildings or other places of public gatherings; and whether or not the use of the proposed location can be reasonably prevented from affecting the public health, safety, or morals by reason of offensive or unhealthy odors or smoke, or of other causes.

In no case may a license be granted for a new Junk Yard located:

- less than 1,000 feet from the right-of-way lines of an interstate highway.
- less than 660 feet from the right-of-way lines of a Class I, Class II, and Class III highways.
- less than 300 feet from the right-of-way lines of Class IV, Class V and Class VI highways.

F. Aesthetic Considerations

At the hearing regarding the Junk Yard location, the Select Board may also consider the clean, wholesome, and attractive environment which has been declared to be of vital importance to the continued stability and development of the tourist and recreational industry of the state and the general welfare of its citizens by considering whether or not the use of the proposed locations can be reasonably prevented from having an unfavorable effect thereon. The Select Board may consider collectively:

- (1) The type of road servicing the Junk Yard or from which the Junk Yard may be seen.
- (2) The natural or artificial barriers protecting the Junk Yard from view.
- (3) The proximity of the proposed Junk Yard to established tourist and recreational areas or main access routes.

(4) The reasonable availability of other suitable sites for the Junk Yard.

G. Grant Or Denial Of Application

After the hearing the Board of Selectman shall, within two weeks, make a finding as to whether or not the application should be granted, giving notice of their findings to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, which may include conditions imposed by the Select Board, and the certificate of approved location, shall be forthwith issued to remain in effect until the following July 1. Approval is personal to the applicant and is not assignable.

H. License Renewal

Licenses shall be renewed thereafter upon payment of the annual license fee and the filing of a completed application together with all of the required materials under this Ordinance by the applicant, without a hearing, if all provisions of this Ordinance and all other applicable Ordinance and Ordinances are complied with during the license period, if the Junk Yard does not become a public nuisance under the common law or is a nuisance under RSA 236:119, and if the applicant is not convicted of any type of larceny or of receiving stolen goods. Applications to renew a license to operate an automotive recycling yard or Motor Vehicle Junk Yard shall include certification of compliance with best management practices established by the department of environmental services for the automobile salvage industry.

All pre-existing (“grandfathered”) Junk Yards shall comply with the provisions of this Ordinance for the purpose of license renewal.

I. Fencing

Before use, a Junk Yard shall be completely surrounded with a solidly constructed fence at least 6 feet in height which substantially screens the area and with a suitable gate which shall be closed and locked except during working hours of the Junk Yard or when the applicant or his agent is within. All motor vehicles and parts stored or deposited by the applicant shall be kept within the enclosure of the Junk Yard except as removal is necessary for its transportation in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts shall be accomplished within the enclosure. Where the topography, natural growth of timber, a natural barrier, or other considerations accomplish the purposes of this section in whole or in part, the fencing requirements hereunder may be reduced by the Select Board, upon the granting of the license.

J. Nuisance

Any facility located or maintained in violation of the provisions of this Ordinance is hereby declared a nuisance, and the same shall be abated by complaint to the appropriate authority.

K. Pre-Existing, Non-Conforming Junkyards

All pre-existing, non-conforming Junk Yards which were in lawful operation as of the original adoption of this Ordinance, and which have continued unexpanded, uninterrupted operation up to the passage of this Ordinance shall be considered approved with respect to location and the owner of the Junk Yard considered suitable for the issuance of a license. Within 60 days from the passage of this Ordinance, however, the owner of a pre-existing, non-conforming Junk Yard shall furnish to the Select Board the information as to location which is required in an application, together with the license fee. The owner of a pre-existing, non-conforming Junk Yard shall comply with all other provisions of this Ordinance with respect to licensing, including fencing requirements.

L. Enforcement; Penalties

In addition to the penalty in RSA 236:127 and any remedy available under the Town of Webster Zoning Ordinance or other law, the Select Board may obtain a mandatory injunction to end any violation of this Ordinance.

The Select Board or other enforcement official of the town, after providing notice, may impose a civil penalty of **\$50.00** for each day upon any person whose land is deemed a nuisance pursuant to RSA 236:119 until such time as the nuisance is removed or abated to the satisfaction of the Board, or until the owner of the land acquires a license and is in compliance with this Ordinance. The building inspector or other local official with the authority to enforce the provisions of this Ordinance may commence an action to collect the civil penalty in a court of competent jurisdiction. Imposition of a civil penalty under this paragraph shall not relieve the owner of any requirement to comply with the provisions of this Ordinance, nor shall it preclude the imposition of further actions or remedies.

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M. Enforcement, Private Persons

Any person owning real property whose property is directly affected by the site of a Junk Yard maintained in violation of the provisions of RSA 236 may in writing, addressed to the Select Board, request that Select Board take appropriate action under this Ordinance and State statute. A copy of the written communication to the Board shall be mailed to the person complained of. If the Select Board shall not, within 30 days thereafter, make a determination that a Junk Yard does exist and issue the appropriate order, such person may, in his own name and in his own right, seek appropriate injunctive relief in the Superior Court against the Junk Yard owner/operator for the enforcement of this Ordinance and State statute.

N. Prohibited Materials

No materials shall be allowed in any licensed Junk Yard that would be in violation of any State, Local or Federal Law.

O. Suspension, Revocation Or Modification Of Permits

The Board may suspend, revoke or modify permits issued hereunder at any time for cause. Cancellation of any of the contracts required hereunder from outside contractors is automatic cause and therefore automatically cancels licenses.

P. Failure To Obey Orders

The Select Board may give orders to enforce these rules and Ordinances during the course of the year. Any license holder who fails to obey such orders shall be subject to suspension, revocation or modification of his/her license to operate.

Q. Hearings

The Select Board may hold such hearings as it may deem proper to enforce this Ordinance. Hearings shall be required to suspend, revoke, or modify issued permits but the Board may temporarily suspend the right to operate when it considers it for serious violation of the Ordinance to do so before the date of the hearing but for not more than 45 days.

R. Amendments

These rules and Ordinances may be amended at any regular or special meeting, properly posted, of the Select Board.

S. Approvals

Approved by:

Approved Date:

History:

**Adopted**